

**IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**HUNTINGTON DIVISION**

BASEERAT JAVED,

Plaintiff,

v.

CIVIL ACTION NO. 3:17-4626

SANDRA ARTHUR,

Defendant.

**MEMORANDUM OPINION AND ORDER**

Pending is Defendant's Motion to Strike Plaintiff's Expert Witnesses or, in the Alternative, Motion to Extend Deadline for Defendant to Disclose Expert Witnesses. ECF No. 54. Defendant argues Plaintiff's disclosure of expert witnesses included seven medical providers, but the disclosure did not include any written reports as required by Federal Rule of Civil Procedure 26(a)(2)(B) or any of the information required by 26(a)(2)(C) to the extent these witnesses are not required to provide written reports. ECF No. 55, at 1–2. Plaintiff did not respond.

Whether the medical providers disclosed by Plaintiff are expert witnesses or treating physicians is unclear. If the providers are expert witnesses, Plaintiff apparently failed to comply with Rule 26(a)(2), and the deadline has now passed. Therefore, to the extent these medical providers are expert witnesses, the Court precludes them from providing expert testimony. If the medical providers are treating physicians, Local Rule of Civil Procedure 26.1(b) controls. It states that “[t]he disclosures described in FR Civ P 26(a)(2)(B) shall not be required of physicians and other medical providers who examined or treated a party or party's decedent unless the examination was for the sole purpose of providing expert testimony in the case.” Thus, to the extent

Plaintiff's disclosed expert witnesses are treating physicians, the Court does not preclude them from testifying.

Under these conditions, the Court **GRANTS** Defendants' Motion to Strike Plaintiff's Expert Witnesses. ECF No. 54. Having ruled in Defendant's favor on this ground, the Court **DENIES AS MOOT** Defendant's Alternative Motion to Extend Deadline for Defendant to Disclose Expert Witnesses. ECF No. 54.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented parties.

ENTER: January 14, 2020



ROBERT C. CHAMBERS  
UNITED STATES DISTRICT JUDGE